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KEVIN KAWAKITA
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COPY MAILED

In re Application of : OCT 16 2006
KEVIN KAWAKITA :
Application No. 09/837,314 :
Filed: April 19, 2001 :
Title of Invention: :
GRAVITY-FED LIQUID CHEMICAL :
DISPENSER BOTTLE :
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely reply to the Notice of Fee Deficiency ("Notice"), mailed December 14, 2004. The Notice indicated that Applicant's reply previously filed on August 23, 2004, was not fully responsive to the Notice of Non-Compliant Amendment mailed June 2, 2004. The Notice required a substitute specification and a balance of \$176.00 for the presentation of excess claims. The Notice set a one (1) period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant timely filed a reply on January 14, 2005; however, the reply did not include the excess claims fee. In fact, as was noted in the Notice of Abandonment, Applicant stated on page 8 of the reply that he was not submitting the extra claims fee in

order to avoid a double patenting rejection when he filed a continuation-in-part ("CIP") application.

No complete reply having been received, the above-identified application became abandoned January 15, 2005. A Notice of Abandonment was mailed on August 2, 2005.

The instant petition

Applicant files the instant petition on June 12, 2006, and fees including the petition fee and an additional \$225.00.

Office records indicate that a refund of \$225.00 was returned to Applicant on June 14, 2006. Accordingly, the \$176.00 in excess claim fees has yet to be submitted to this Office.

Applicable Law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed); (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (1).

As to item (1), Applicant has not submitted a reply to the Notice. The \$225.00 filed by Applicant was returned to Applicant.

Applicant must re-submit the excess claims fees (\$176.00).

Applicant is further advised that this Office (the PTO), provides assistance to inventors, and Applicant is advised to contact the Office of Independent Inventors, at 703-306-5568, and the Patent Assistance Center, at 1-800-786-9199, for assistance in prosecuting his patent application.

Further correspondence with respect to this matter should be addressed as follows:

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions